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C O N F I D E N T I A L SECTION 01 OF 02 MEXICO 002536

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SUBJECT: CONTROVERSY OVER THE RELEASE OF ACCUSED 1997
MASSACRE PERPETRATORS

Classified By: Political Minister Counselor Gustavo Delgado. Reason: 1
.4 (b),(d).

11. (SBU) Summary: On August 12, the Mexican Supreme Court ordered the release of 20 individuals imprisoned for their involvement in the 1997 massacre in Chiapas that occurred at the height of the government's efforts to quell the violent Zapatista movement. The Court also ordered retrials for six others convicted for participating in the killing of 45 people. The Supreme Court cited irregularities in the investigation of the crimes and claimed that the Attorney General's Office (PGR) had fabricated evidence. Human rights organizations criticized the decision, insisting those released from prison were in fact responsible for the crime. However, a number of legal experts have suggested the Supreme Court decision reinforces the Court's commitment to due process in the investigation of crimes, however heinous, and should compel investigators and prosecutors to comply more fully with their obligations under the law in future investigations. End Summary.

12. (U) On December 22, 1997, 45 people were brutally killed, including 18 children and 21 women, in what became known as the Acteal Massacre in Chiapas. State and federal officials claimed a land dispute between two Tzotzil Indian communities spurred the killings. Victims' families, however, noted that the killings occurred in the midst of the government's efforts to crush the Zapatista Army of National Liberation (EZLN). They also insisted that state officials provided weapons and military training to the accused. According to a local human rights NGO in Chiapas, the Center for Human Rights Fray Bartolome, officials detained 87 suspects immediately following the attack. Over the next five years, 81 were convicted and sentenced to 25 years in prison or more. In 2001, the six remaining prisoners were released for lack of evidence. Separately, fifteen municipal and state public security officials were convicted of participating in the massacre. All but one was sentenced to eight years or less; one individual was sentenced to 36 years.

13. (U) In 2008, the Supreme Court agreed to hear the prisoners' claims that their constitutional rights were violated in the course of the investigation. The Center for Economic Studies (CIDE) filed "amparos" on behalf of 57 inmates and the court agreed to consider 26; the other 31 cases are still pending a review by the Supreme Court. In announcing their decision, the ministers were careful to clarify that they were not addressing the guilt or innocence of the defendants. Rather, the ministers concluded that serious irregularities in the investigation had deprived the inmates of their constitutional rights to a fair trial. The Court agreed with the convicts that the case against them had been based on "illicitly obtained information which has no

value in a court of law." In speaking to the charges of irregularities that occurred in the course of the investigations, press reports noted claims that PGR had fabricated witnesses and evidence, used torture against suspects and witnesses, and prosecuted false charges against some of the 81.

¶4. (C) Representatives of the human rights NGO Centro Prodh told Poloffs that they believed the newly freed prisoners were in fact responsible for the killings. They fear the released prisoners pose a potential threat to eyewitnesses and survivors of the 1997 massacre. They argue that while tensions among indigenous groups in the area existed, it was in fact a paramilitary group linked to Chiapas state-"the Red Mask"-which carried out the massacre against another group, the "Bees", whose members sympathized with the Zapatistas. Jorge Hernandez, a lawyer at Fray Bartolome de las Casas, expressed similar displeasure with the Court's decision for its failure to look at the case comprehensively and for focusing exclusively on administrative procedures of the cases. Fray Bartolome de las Casas has worked closely with the survivors and eyewitnesses of the massacre; Hernandez expressed fears that the released could seek revenge.

¶5. (C) Comment: Human rights organizations may have good reason to worry that some of those released may seek to exact revenge on those who testified. However, few dispute significant irregularities occurred in the course of the investigation of this case which undermined the defendants' claim to due process under law. According to Jorge Carpizo, a former Supreme Court minister, a former Attorney General, a former President of the National Human Rights Commission (CNDH) and a current researcher at UNAM's Institute for

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Judicial Research, the decision could strengthen due process by setting a strong precedent for standards to be met in the course of investigations leading to trials. However, he conceded to Poloff that guilty men were probably released as a result of this decision. As Mexico begins the process of undertaking wholesale judicial reform in keeping with legislation passed by Congress last year, the Court will likely take similar decisions that challenge society's traditional concept of justice but ultimately make important contributions to respect the rule of law and the Mexican legal system. End comment.

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